

JENNIFER S. ROMANO (SBN 195953)
jromano@crowell.com
ANDREW HOLMER (SBN 268864)
aholmer@crowell.com
CROWELL & MORING LLP
515 South Flower Street, 40th Floor
Los Angeles, California 90071
Telephone: (213) 622-4750
Facsimile: (213) 622-2690

THOMAS F. KOEGEL (SBN 125852)
tkoegel@crowell.com
NATHANIEL P. BUALAT (SBN 226917)
nbualat@crowell.com
CROWELL & MORING LLP
3 Embarcadero Center, 26th Floor
San Francisco, California 94111
Telephone: 415.986.2800
Facsimile: 415.986.2827

APRIL N. ROSS (admitted *pro hac vice*)
aross@crowell.com
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2595
Telephone: (202) 624-2500
Facsimile: (202) 628-5116

Attorneys for Defendant
UNITED BEHAVIORAL HEALTH

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DAVID WIT, et al.,

Plaintiffs,

v.

UNITED BEHAVIORAL HEALTH,

Defendant.

Case No. 14-cv-02346 JCS
Related Case No. 14-cv-05337 JCS

**DEFENDANT UNITED BEHAVIORAL
HEALTH'S ADMINISTRATIVE MOTION
TO SEAL EXHIBITS TO THE
DECLARATION OF APRIL N. ROSS IN
SUPPORT OF UBH'S MOTION TO STAY
REMEDIES ORDER PENDING APPEAL**

Hon. Joseph C. Spero

GARY ALEXANDER, et al.,

Plaintiffs,

v.

UNITED BEHAVIORAL HEALTH,

Defendant.

Pursuant to Civil Local Rules 7-11 and 79-5, Defendant United Behavioral Health (“UBH”) respectfully moves this Court for leave to file under seal the exhibits to the Declaration of April N. Ross in support of UBH’s Motion To Stay Remedies Order Pending Appeal (“Ross Declaration”).

Specifically, UBH requests that Exhibits 1–141 to the Ross Declaration be filed under seal in their entirety because they contain personal and health information relating to members of the absent class. Plaintiffs’ counsel does not oppose this motion to seal.

Pursuant to Civil Local Rule 79-5, this motion is accompanied by a declaration in support of UBH’s Motion to Seal and a proposed order in accordance with Civil Local Rules 7-11 and 79-5(d)(1)(B).

ARGUMENT

Disclosure of the personal and health information in the exhibits to the Ross Declaration could harm the individuals to whom the information pertains. The sensitivity of this information is reflected in the Privacy Rules of the Health Insurance Portability and Accountability Act (“HIPAA”), codified at 45 C.F.R. Parts 160 and 164, which “recognize the important public and private interests in protecting medical records from wholesale public disclosure.” *See Fischer v. City of Portland*, No. CV 02-1728, 2003 WL 23537981, at *3 (D. Or. Aug. 22, 2003). Courts in this Circuit consistently recognize that harm from disclosure of personal and health information outweighs the public policies favoring disclosure. *See, e.g., A.C. v. City of Santa Clara*, No. 13-CV-03276-HSG, 2015 WL 4076364, at *2 (N.D. Cal. July 2, 2015) (sealing medical records); *San Ramon Reg’l Med. Ctr., Inc. v. Principal Life Ins. Co.*, No. 10–cv–02258–SBA, 2011 WL 89931, at *1 n.1 (N.D. Cal. Jan. 10, 2011) (sealing sua sponte medical records).

The exhibits to the Ross Declaration constitute documents containing protected health information for sample class members and so should be filed under seal. Specifically, the exhibits to the Ross Declaration contain information about class members’ mental health and/or substance use disorder diagnoses and treatment, as well as minors who received such diagnoses and treatment. The Court has previously sealed these same documents. (ECF No. 488.) UBH’s

1 request is narrowly tailored, and seeks only to seal the exhibits themselves and no portion of the
2 Ross Declaration.

3 **CONCLUSION**

4 For the foregoing reasons, UBH respectfully requests that the Court grant its motion and
5 seal the exhibits to the Ross Declaration.

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7 Dated: November 20, 2020

CROWELL & MORING LLP

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9 By: /s/ Jennifer S. Romano

10 Jennifer S. Romano

11 Attorneys for Defendant
12 UNITED BEHAVIORAL HEALTH
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